

REMARKS

Upon entry of the present amendment, claim 1 will have been amended, while claims 1 and 3-12 remain in this application and claim 2 will have been previously canceled.

In view of the herein contained amendments and remarks, Applicants respectfully request reconsideration and withdrawal of each of the outstanding rejections set forth in the above-mentioned Official Action, together with an indication of the allowability of all of the claims pending in the present application.

Applicants wish to thank Examiner Sanders and Supervisory Patent Examiner Casler for there outstanding courtesy and cooperation exhibited during the personal interview conducted on March 15, 2004.

During the above-noted interview, Applicants' representative discussed the features of the present invention, the advantages thereof with respect to the prior art, and the basis in the written description for the claim language.

In particular Applicants' representative discussed the rejection of claims 1 and 3-12 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The previous Examiner had asserted that written description did not convey that the driving unit moves the interferometer unit towards and away with respect to the signal processing system. During the interview the Examiners stated that the Applicants' arguments overcame the rejection under 35 U.S.C. § 112, first paragraph.

More specifically, Applicants directed the Examiners' attention to page 19, lines 18-23 of the present specification that describes the interferometer unit as including the light detector D, beam splitter S, and reflector R moving as unit towards the object T. This is further shown in figures 2 and 3. As described on page 25, line 13 et seq. of the specification, these components are held in a space of holding tube 154a, the holding tube being shown in figure 6. The driving unit DR moves the entire unit as described in the first whole paragraph of page 26 of the specification. On the other hand, the signal processing system, including for example only, SLD 231 and OCT driving unit 23 are held in the external unit 2 as shown in figure 2 and described in the first whole paragraph of page 9, whereas the above noted interferometer unit moves within the endoscope 1 within the insertion tube. Thus, the interferometer moves towards and away from the object with respect to the endoscope and also with respect to the external unit that includes the signal processing unit.

Applicants respectfully submit that the specification does comply with the written description requirement in that the claim 1 recitation that the interferometer moves towards and away from the object relative to the endoscope is fully supported by the specification as discussed and agreed to in the above-noted interview and for at least the reasons noted above.

Next, Applicants' representative discussed the rejection of claims 1 and 3-12 under 35 U.S.C. § 103(a) as being unpatentable over BOPPART et al. In particular, the present invention is directed to an endoscope system with a driving unit that moves the interferometer

unit towards and away from the object. See figures 2 and 3. The interferometer unit includes, inter alia, a beam splitting element and a reflector unit.

On the other hand, BOPPART et al. discloses in figure 2, a probe unit 22 with illumination port 26 and receiver port 30. The probe unit as shown in figure 2 is separate and distinct from the beam splitter 14, optical combiner 34, and reference mirror 18. Furthermore, BOPPART et al. is silent as to a drive unit that moves all of these components towards and away from the object.

Figure 9c of BOPPART et al. is an example of focus tracking. As stated in Figure 9c, and column 18, lines 29-37, the focus tracking requires adjustment of the reference arm path length, or adjustment of the reference mirror location as the focusing lens is moved to image different depths within a specimen. Thus, contrary to the Examiner's assertion, the embodiment shown in Figure 9c does not show that the interferometer unit as defined in claim 1 is translated with respect to the signal processing system. In addition, other portions of the cited columns 16-19 of BOPPART et al. include the explanation of Figures 9a and 9b. However, neither Figure 9a nor 9b includes an interferometer unit that is movable or is driven as recited, as is clearly evidenced by the arrows of the figures. Moreover, the reference to "moving the entire probe module" in the legend of Fig. 9a clearly does not disclose moving the interferometer unit, as the probe module is distinct from the interferometer as shown in Fig. 1.

The Examiners were convinced by Applicants arguments regarding the distinctions between BOPPART et al. and the present invention. During further discussions conducted with the Examiners during the above-noted interview, the Examiner and Applicants' representative further agreed that the claims should be clarified to recite that the interferometer is accommodated in an endoscope and the entire interferometer unit moved relative the object and the endoscope. Accordingly, by the present response, Applicants have amended the independent claim in the manner suggested by the Examiner.

Accordingly, since BOPPART et al. do not disclose, teach or suggest the combination of the features in Applicants' invention, as recited in claim 1, withdrawal of the rejection under 35 U.S.C., § 103(a) based on BOPPART et al. is respectfully requested.

With regard to claims 3-12, Applicants assert that they are allowable at least because they depend from independent claim 1, which the Applicants submit have been shown to be allowable.

In view of the herein contained amendments and remarks, Applicants respectfully request reconsideration and withdrawal of previously asserted rejections set forth in the Official Action of June 3, 2003, and maintained in the Advisory Action of October 21, 2003, together with an indication of the allowability of claims 1 and 3-12, in due course. Such action is respectfully requested and is believed to be appropriate and proper.

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Any amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attached thereto.

Pursuant to MPEP §714.13, Applicants contend that entry of the present amendment is appropriate because the proposed amended claim recitation of the movement of the interferometer unit avoids the rejections set forth in the last Office Action, resulting in the application being placed in condition for allowance, or, alternatively, the revised claims place the application in better condition for purposes of appeal by more accurately defining movement of the inferometer. Furthermore, the revised claim does not present any new issues that would require any further consideration and/or search by the Examiner, and the amendment does not present any additional claims without canceling a like number of pending claims. Accordingly, entry of the present amendment is respectfully requested.

## SUMMARY AND CONCLUSION

Entry of the present amendment is believed to be proper, even though the present application is subject to a final rejection in view of the fact that none of the art of record, whether considered alone or in any proper combination, discloses or suggests the present invention as defined by the pending claims. Furthermore, in view of the above remarks, reconsideration of the Examiner's action and allowance of the present application are respectfully requested and are believed to be appropriate. Thus, Applicants respectfully requests reconsideration and entry of the present amendment.

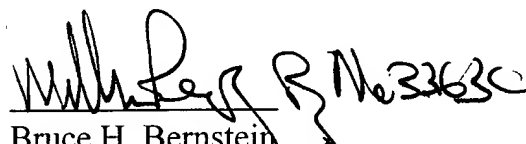
Applicants have made a sincere effort to place the present application in condition for allowance and believe that they have now done so. Applicants have pointed out the specific language of Applicants' claims that define over the references of record and respectfully request an indication to such effect, in due course.

Applicants have also provided a summary of the substance of the personal interview conducted on March 15, 2004.

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Should the Examiner have any questions concerning this Amendment or the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,  
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